

§ 230.427T

17 CFR Ch. II (4–1–02 Edition)

statement, as of a date not more than 16 months prior to the use of the prospectus is contained therein.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 3(b), 12, 13, 14, 15(d), 23(a), 48 Stat. 882, 892, 894, 895, 901; secs. 203(a), 1, 3, 8, 49 Stat. 704, 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 4, 5, 6(d), 78 Stat. 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3, 4, 5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 89 Stat. 117, 118, 119; sec. 308(b), 90 Stat. 57; sec. 18, 89 Stat. 155; secs. 202, 203, 204, 91 Stat. 1494, 1498–1500; sec. 20(a), 49 Stat. 833; sec. 319, 53 Stat. 1173; sec. 38, 54 Stat. 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 79t(a), 77sss(a), 80a–37)

[47 FR 11440, Mar. 16, 1982]

§ 230.427T Information in prospectuses more than nine months after the effective date of the related registration statement.

(a) Notwithstanding the language in Section 10(a)(3) of the Act (15 U.S.C. § 77j(a)(3)), until December 16, 2002, for a registrant that meets the eligibility requirements in paragraph (a)(1) of this section, the audited financial information in a prospectus used more than nine months after the effective date of the registration statement of which that prospectus is a part must be as of a date not more than eighteen months prior to such use; provided that the conditions specified in paragraph (a)(2) of this section are satisfied.

(1) *Eligibility requirements.* A registrant meets the eligibility requirements of this paragraph (a) of this section if:

(i) The registrant has an effective registration statement under the Act that is required to include financial statements for any entity that has a fiscal year ending between and including November 30, 2001 (or, in the case of a registered investment company, January 1, 2002) and April 15, 2002;

(ii) Arthur Andersen LLP (or a foreign affiliate of Arthur Andersen LLP) had been engaged, on or after March 14, 2002, as the independent public accountant to examine those financial statements for that fiscal year;

(iii) On or before March 14, 2002, the registrant had not obtained a manually signed audit report from Arthur Ander-

sen LLP (or a foreign affiliate of Arthur Andersen LLP) in respect of those financial statements for that fiscal year;

(iv) The registrant is unable to obtain from Arthur Andersen LLP (or a foreign affiliate of Arthur Andersen LLP) or elects not to have Arthur Andersen LLP (or a foreign affiliate of Arthur Andersen LLP) issue a manually signed audit report in respect of those financial statements; and

(v) The registrant is not a “blank check company” as defined in § 230.419(a)(2) of this chapter.

(2) Conditions.

(i) A prospectus that is used more than nine months after the effective date of the registration statement of which that prospectus is a part includes unaudited financial information that is as of a date not more than sixteen months prior to such use; provided that the registrant provides in the prospectus disclosure reflecting the guidance in Temporary Note 2T to Article 3 of Regulation S–X (§§ 210.3–01–3–20 of this chapter).

(ii) The audited financial information referred to in paragraph (a)(1)(i) of this section in a prospectus used more than nine months after the effective date of the registration statement of which that prospectus is a part must be audited by an independent public accountant other than Arthur Andersen LLP (or a foreign affiliate of Arthur Andersen LLP) and the prospectus must include:

(A) A discussion of any material changes from the unaudited financial information; and

(B) Updated or revised information in any other section of the prospectus or documents incorporated by reference that should be updated or revised to reflect the changes in the audited financial information.

(b) This temporary section will expire on December 31, 2002.

[67 FR 13536, Mar. 22, 2002]

EFFECTIVE DATE NOTE: At 67 FR 13536, Mar. 22, 2002, § 230.427T was added effective Mar. 18, 2002 through Dec. 31, 2002.